



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 26, 1995

Ms. Alesia L. Sanchez
Legal Assistant
Legal Services, 110-1A
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR95-705

Dear Ms. Sanchez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 27323.

The Texas Department of Insurance ("the department") received a request for the following information about Employers Casualty Company:

1. Any response(s) from ECC, its conservator(s) or receiver(s), to the survey discussed in the Publication;
2. All documents of TDI's Warning Management Group which discuss ECC including, but not limited to, any and all "Assignment Reports," "Watch Lists," or "Company Reports";
3. The Reinsurance Divisions's documents relating to its monitoring of ECC's Reinsurance Agreements for improprieties or fraud.

You say the department will release some of the requested information to the public, but that the department seeks to withhold some information based on sections 552.101 and 552.112 of the Government Code.

Section 552.112(a) of the Government Code excepts from required public disclosure

information contained in or relating to examination, operating, or condition reports prepared by or for an agency responsible for the regulation or supervision of financial institutions or securities, or both.

This exception may protect information that indirectly reveals the contents of examination, operating, or condition reports. *See* Open Records Decision No. 261 (1980) (conclusions of examination report of state bank). Information on the documents you submitted indirectly reveals information contained in or related to examination, operating, or condition reports. In addition, the department is a financial institution for purposes of section 552.112 of the Government Code. *See* Open Records Decision No. 158 (1977). We, therefore, conclude that the department may withhold the submitted information pursuant to section 552.112 of the Government Code, but with one exception. The department must release the press release that apparently was issued on January 17, 1991.

In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Kay Guajardo".

Kay Guajardo
Assistant Attorney General
Open Government Section

KHG/MAR/rho

Ref.: ID# 27323

Enclosures: Submitted documents

cc: Mr. Andrew R. Korn
Fulbright & Jaworski
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